

FILED

JUN 21 2016

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
a.c. DEPUTY

1 UNITED STATES DISTRICT COURT
2
3 SOUTHERN DISTRICT OF CALIFORNIA

(Hon. Nita L. Stormes)

4 UNITED STATES OF AMERICA,

Criminal Case No.: 16 CR1225-GPC
Magistrate Case No.:5
6 Plaintiff,

7 vs.

8 **ORDER FOR THE VIDEOTAPE**
9 **DEPOSITIONS OF THE**
10 **MATERIAL WITNESS**

LINCOLN FELIX,

11 Defendant.
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13 Pursuant to the motion of material witness(S) Juan Manuel Gonzalez Munoz
14 and Martin Enriquez Gonzalez [the "Material Witness"], by and through their
15 attorney, Christopher K. Monelt, by appearance of the parties and their respective
16 counsel, and good cause appearing:

17 1. Unless the Material Witness is previously released from custody of both the
18 U.S. Marshall and the United States Border Patrol, the Material Witness(S) Juan
19 Manuel Gonzalez Munoz and Martin Enriquez Gonzalez, shall be deposed on ____
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21 7-20, 2016 at 10:00a.m. The deposition will be held at the U.S.
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23 Attorney's office in San Diego, California. An employee of the U.S. Attorney's
24 office shall serve as the videotape operator.
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26 2. All parties shall attend the depositions. The arresting agency shall bring the
27 Material Witness to the deposition and remain present during the proceeding. If
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1 the defendant(s) are in custody, they shall be brought separately to the depositions
2 and a marshal shall remain present during the entire proceeding.

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4 3. The United States Attorney's Office shall arrange for a court-certified
5 interpreter to be present for the Material Witness, if necessary. The cost of the
6 interpreter for the Material Witness will be borne by the United States. See 28
7 U.S.C. § 1827(c)(2).
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9 4. If a defendant needs an interpreter independent of the Material Witness'
10 interpreter (if any), defense counsel will arrange for a court-certified interpreter to
11 be present. The cost of a separate interpreter shall be paid by the court.
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13 5. The U.S. Attorney's Office shall arrange for a certified court reporter to be
14 present. The court reporter shall stenographically record the testimony and serve
15 as a notary and preside at the depositions in accordance with Rule 28(a), Fed. R.
16 Civ. P. The cost of the court reporter shall be borne by the U.S. Attorney's Office.
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19 6. The depositions shall be videotape recorded. Prior to the conclusion of each
20 deposition, the deponent, or a party, may elect to have the deponent review the
21 videotape record of his depositions and to note any changes. Any errors or
22 changes, and the reasons for making them, shall be stated in writing and such
23 writing shall be signed by the deponent(s).
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26 7. The videotape operator shall select and supply all equipment required to
27 videotape and audiotape the depositions and shall determine all matters of staging
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1 and technique, such as number and placement of cameras and microphones,
2 lighting, camera angle, and background. He/she shall determine these matters in a
3 manner that accurately reproduces the appearance of the witnesses and assures
4 clear reproduction of each witness' testimony and the statements of counsel. The
5 witness, or any party to the action, may place upon the record any objection to the
6 videotape operator's handling of any of these matters. Such objection shall be
7 considered by the Court in ruling on the admissibility of the video and/or
8 audiotape record. All such objections shall be deemed waived unless made
9 promptly after the objector knows, or has reasonable grounds to know, of the basis
10 of such objection.
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15 8. The Material Witness shall be deposed in an order as determined the
16 Assistant United States Attorney conducting the depositions for the prosecution.
17 The deposition shall be recorded in a fair, impartial, objective manner. The
18 videotape equipment shall be focused on the witness; however, the videotape
19 operator may from time to time focus upon charts, photographs, exhibits or like
20 material being shown to the witness during the deposition.
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23 9. Before examination of the witness, the notary shall state on the video/audio
24 record: (a) his/her name and address; (b) the date, time and place of the
25 deposition; (c) the name of the witness and the caption of the action; and (d) the
26 identity of the parties and the names of all persons present in the room. The
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1 notary shall then swear the witness on the video record. Further, at the beginning
2 of the examination by each counsel, the counsel shall identify himself/herself and
3 his/her respective client on the record. If more than one videotape is used, the
4 notary shall repeat items (a), (b) and (c) at the beginning of each new tape.
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6 10. The videotape operator shall not stop the video recorder after the deposition
7 commences until it concludes, except, however, that any party may request a
8 cessation for a brief recess, which request will be honored unless another party
9 objects and states the basis for said objection on the record. Each time the tape is
10 stopped or started, the videotape operator shall announce the time on the record.
11 If the deposition requires the use of more than one tape, the end of each tape and
12 the beginning of the next shall be announced orally on the video record by the
13 operator.
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15 11. Testimonial evidence objected to shall be recorded as if the objection had
16 been overruled and the court shall rule on the objections prior to admitting that
17 portion of the deposition. The party raising the objection(s) shall be responsible
18 for preparing a transcript for the court to consider. All objections to the evidence
19 presented shall be deemed waived unless made during the deposition.
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21 12. If requested by a party, the deposition testimony, if offered other than for
22 impeachment, may be presented in non-stenographic audio/visual format, in which
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1 case no transcript need be prepared in advance of trial, unless otherwise ordered
2 by the Court. See Fed. R. Civ. P. 32(c).

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4 13. Copies of all exhibits utilized during the videotaped deposition shall be
5 marked for identification during the deposition and filed along with the videotape.

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7 14. At the conclusion of each deposition, the Government and defendants will
8 advise the material witness' attorney if they intend to object to the release of the
9 material witness. If the parties do not object to the witness' release, the
10 Government and defense attorney will immediately approve an order for the
11 material witness' release from custody. The Government will provide the witness
12 with a subpoena for the trial date, a travel advance fund letter, and written
13 authorization to enter the United States to testify at trial.
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16 15. If either party objects to the release of the material witness, the objecting
17 party must immediately request in writing a hearing on the issue before the
18 District Court within four business hours after the deposition is concluded. At the
19 hearing, the objecting party must be prepared to show why the release of the
20 material witness is not appropriate under 18 U.S.C. § 3144. If, after the hearing,
21 the Court decides to release the material witness, the material witness attorney
22 should file the witness release order immediately. Again, the Government must
23 serve the witness with a trial subpoena, a travel fund advance letter, and written
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1 authorization to legally enter the United States to testify at trial before the material
2 witness is released.

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4 16. Upon request by either party, the videotape operator shall provide a copy of
5 the videotape deposition to the requesting party at the requesting party's expense.

6 After preparing the requested copies, if any, the videotape operator shall turn the
7 original videotape over to the notary along with a certificate signed by the
8 videotape operator attesting that the videotape is an accurate and complete record
9 of the deposition.
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12 17. The notary shall file this original tape, along with the any exhibits offered
13 during the deposition, with the Court in a sealed envelope marked with the caption
14 of the case, the name of the witness and the date of the deposition. To that
15 envelope, the notary shall attach the sworn statement that the videotape is accurate
16 and complete record of the recorded deposition and certification that the witness
17 was duly sworn by the officer.
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21 18. To the extent that the procedures set forth herein for the videotaping vary
22 from those set forth in Rules 28 and 30 F. R.Civ. P., these variations are found to
23 be for good cause shown as allowed by F. R. Civ. P. 29.
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1 19. Unless waived by the parties, the notary must give prompt notice to all
2 parties of the filing of the videotape record of the deposition with the Court
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4 pursuant to Fed.R.Civ.P. 30(f)(3).

5 **It Is So Ordered.**

6 DATED: 6-21-16
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9 By: 
10 United States Magistrate Court Judge
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